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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/753,251

01/08/2004

David H. Hanes

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HEWLETT-PACKARD COMPANY

Intellectual Property Administration

3404 E. Harmony Road

Mail Stop 35

FORT COLLINS, CO 80528

EXAMINER

ADEGEYE, OLUWASEUN

ART UNIT

PAPER NUMBER

2481

NOTIFICATION DATE

DELIVERY MODE

06/15/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JERRY.SHORMA@HP.COM

ipa.mail@hp.com

laura.m.clark@hp.com

Office Action Summary	Application No. 10/753,251	Applicant(s) HANES, DAVID H.	
	Examiner OLUWASEUN A. ADEGEYE	Art Unit 2481	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02/28/2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 14 and 16 - 27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 - 14 and 16 - 27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01/08/2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 02/28/2011 have been fully considered but they are not persuasive.

In re page 8, applicant's amendment involving changing "medium" to "memory unit" does not appear to resolve the 35 U.S.C. 101 rejection previously raised as the specification fails to disclose what exactly constitutes a "memory unit" and thus a "memory unit" is capable of reading on a transitory propagating signal.

In re page 10, applicants argue that the cited reference does not disclose a rule or rule set. In response, the examiner respectfully disagrees. Column 21, lines 29 - 56 clearly discloses comparing the first generation encoding process to any of the past three and if it is different, a "normal encoding process" will be performed. Column 16, lines 57 – 67 clearly discloses the "normal encoding process" to be a transcoding process where the GOP structure and the bit rate of the encoded video bit stream will be converted into that which is desired by the operator. Therefore the examiner interprets the MPEG and compatibility rules to be the steps taken during a transcoding process where the device checks the past history to see whether the picture type referenced is different or the same and based on the outcome, a process is carried out (see column 21, lines 36 – 57).

In re page 10, the applicants discloses that the Kitamura reference does not disclose either a user is alerted or the file is transcoded based upon a rule violation occurring. In response, the examiner respectfully disagrees. Column 21, lines 36 - 57

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clearly discloses checking the reference picture type specified for the reference picture for the fourth generation encoding process. The examiner interprets the step of checking the reference picture specified by the operator to be the rule set and them being different from the past picture types from the past encoding processes to be a rule violation. If the rule is violated, transcoding occurs (see fig. 15).

In re page 11, applicants argue with respect to claim 8 that the cited reference does not disclose transcoding the file or alerting the user upon determining that a GOP header is not present in the file. In response, the examiner respectfully disagrees. Column 17, lines 26 - 43 clearly discloses all the encoding parameters which include a GOP header (group_of_pictures_header). Column 19, lines 14 – 28 clearly discloses extracting this parameters to see whether the bitstream needs to be transcoded or not if they are the same or different from that which is specified by the operator (see column 21, lines 42 – 56).

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 18 - 24 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Said claim discloses a “computer-readable memory unit” (line 1). Both said claim and the respective specification (p. 9, lines 8 - 10) fail to disclose whether said “computer-readable memory unit” is limited to a non-transitory medium or transitory propagating signal. Reading said claim under the

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broadest reasonable interpretation "computer-readable memory unit" is considered to read on a transitory propagating signal. See the Subject Matter Eligibility of Computer Readable Media memo dated February, 23 2010 (1351 OG 212). A claim directed to only signals per se is not a process, machine, manufacture, or composition of matter and therefore is not directed to statutory subject matter. See MPEP § 2106. Thus, both said claim and said specification fail to define said "computer readable medium" to be statutory media.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1 – 27 are rejected under 35 U.S.C. 102(e) as being anticipated by Kitamura (US 7,236,526 B1).

As to **claim 1**, Kitamura discloses a method of analyzing a moving pictures expert group (MPEG)-formatted video/audio file (see column 17, lines 39 – 43), comprising:

retrieving by a processing element a rule set that includes an MPEG rule and a compatibility rule, said MPEG rule defining a format requirement for the file to be

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decoded by a first type of MPEG-capable decoder, and the compatibility rule defining a format requirement for the file to be decoded by a second type of MPEG-capable decoder (each time the bit stream passes through a transcoder, a set of parameters are generated for example column 17 lines 30 – 40 discloses encoding parameters generated during the 3rd generation whereas column 17, lines 44 – 52 discloses encoding parameters generated during the first, second and third generation. All these information about past encoding parameters are stored in a history stream (see column 17, lines 60 – 67). Therefore each time the bit stream passes from one transcoder to the next, the stored encoding parameters are checked to see whether they need to be changed or not based on the operator or the host computer (see column 20, lines 50 – 57). From the cited paragraphs it is easy to see that each time a bit stream passes through a transcoder, a set of parameters are checked to see whether they need to be transcoded or not based on what the operator desires. Therefore when the bit stream goes from one transcoder to the next, a set of parameters are checked e.g. sequence_header (see column 17, lines 35) this is the first rule set then the bit stream goes to the next transcoder, a set of parameters are also checked e.g. group_of_pictures_header (see column 17, lines 36 - 37) which is the second rule set.

Since the Kitamura reference discloses 4 transcoders (see column 16, lines 62 – 64), the examiner interprets this to include at least 4 rule sets and at least 4 decoders because based on what an operator or host computer desires in terms of for example bit rate and GOP structure, the encoding devices encodes the video data (see column

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20, lines 50 - 57). Each time the above process occurs, the examiner interprets that to be a separate rule set.

reading by a processing element a portion of the file (see column 21, lines 42 – 44. the above cited paragraph discloses checking the picture type of a past encoding process);

comparing by a processing element the portion of the file with the MPEG and compatibility rules contained in the rule set (see column 21, lines 36 – 57.”....If the picture type specified for the reference picture for the fourth-generation encoding process is different from all picture types for the past encoding processes....”); and

determining by a processing element whether the file violates any of the MPEG and compatibility rules contained in the rule set (see column 21, lines 36 – 57.”....If the picture type specified for the reference picture for the fourth-generation encoding process is different from all picture types for the past encoding processes, the controller 70 carries out a “normal encoding process.”). The normal encoding process involves decoding and then encoding with is transcoding (see fig. 15).

As to **claim 2**, Kitamura the method according to claim 1, wherein the MPEG rule comprises a parameter for addressing the portion of the file (see column 17, lines 26 – 44, column, column 20, lines 50 – 57, column 21, lines 14 – 57. From the above cited columns the defined rule is the bit rate and the GOP structure. From the above cited column, if the host computer operates with a different bit rate or GOP structure that is different from the previous three, transcoder 101 will transcode the bit stream to the format required by the operator or the host computer.).

As to **claim 3**, Kitamura discloses the method according to claim 2, wherein the parameter specifies a bit rate of the file (see column 17, lines 26 – 44, column, column 20, lines 50 – 57, column 21, lines 14 – 57. From the above cited columns the defined rule is the bit rate and the GOP structure. From the above cited column, if the host computer operates with a different bit rate or GOP structure that is different from the previous three, transcoder 101 will transcode the bit stream to the format required by the operator or the host computer)

As to **claim 4**, Kitamura discloses the method according to claim 1, wherein at least one of the rules comprises at least one parameter logically defining a standardized format requirement (see column 17, lines 42 – 43).

As to **claim 5**, Kitamura discloses the method according to claim 1, wherein at least one of the rules comprises at least one parameter logically defining a MPEG format requirement (see column 17, lines 42 – 43).

As to **claim 6**, Kitamura discloses the method according to claim 1, wherein the compatibility rule comprises at least one parameter logically defining a digital versatile disc (DVD) format requirement (see column 17, lines 25 – 43. Line 43 discloses MPEG2).

As to **claim 7**, Kitamura discloses the method according to claim 1, wherein reading a portion of the file comprises locating a sequence header of the file (see column 17, line 35).

As to **claim 8**, Kitamura discloses the method according to claim 1, wherein comparing the portion of the file comprises determining whether the file comprises a group of

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pictures (GOP) header (see column 17, lines 36 - 37) and wherein performing at least one of transcoding and alerting occurs based upon determining that a GOP header is not present in the file (see column 17, lines 26 - 43 clearly discloses all the encoding parameters which include a GOP header (group_of_pictures_header)). Column 19, lines 14 – 28 clearly discloses extracting this parameters to see whether the bitstream needs to be transcoded or not if they are the same or different from that which is specified by the operator (see column 21, lines 42 – 56).

As to **claim 9**, Kitamura discloses the method according to claim 1, further comprising transcoding the file upon determining the file violates any of the rule (see column 17, lines 26 – 44, column, column 20, lines 50 – 57, column 21, lines 14 – 57. From the above cited columns the defined rule is the bit rate and the GOP structure. From the above cited column, if the host computer operates with a different bit rate or GOP structure that is different from the previous three, transcoder 101 will transcode the bit stream to the format required by the operator or the host computer).

As to **claims 10 – 17**, grounds for rejecting claims 1 - 9 apply to claims 10 - 17 in its entirety. Figure 15 discloses the transcoder (101), computer (100) and decoder (102).

As to **claim 18**, this is a computer readable medium claim corresponding to the method claim 1. Therefore, claim 18 is analyzed and rejected as previously discussed with respect to claim 1. Column 65, lines 22 – 27 discloses computer programs corresponding to the method of claim 1.

As to **claims 19 – 14**, grounds for rejecting claims 1 - 9 apply to claims 19 - 24 in its entirety.

As to **claims 25**, grounds for rejecting claim 1 apply to claim 25 in its entirety. Figure 15 discloses the transcoder (101), computer (100) and decoder (102).

As to **claims 26**, grounds for rejecting claim 9 apply to claims 26 in its entirety.

As to **claim 27**, Kitamura discloses the method of claim 1 wherein:

the MPEG rule specifies a maximum bit rate value (see column 21, lines 19 – 23.”...The controller 70 also receives information on a target bit rate....”) and a location within a sequence header of the file at which a bit rate encoded in the file is located (column 21, lines 24 - 27 discloses history information from the history information separating device with has history information on the past encoding parameters such as the sequence header (see column 17, line 35)), and

the compatibility rule specifies that a GOP header must be present in the file (see column 17, lines 36 – 37).

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OLUWASEUN A. ADEGEYE whose telephone number is (571)270-1711. The examiner can normally be reached on Monday - Friday 7:30 - 5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter-Anthony Pappas can be reached on 571-272-7646. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/O. A. A. /
Examiner, Art Unit 2481

/Peter-Anthony Pappas/
Supervisory Patent Examiner, Art Unit 2481